

Workgroup to Study Partial Expungement
October 12, 2021 | 3:00 p.m. - 4:00 p.m.

These minutes are pending review and approval from Workgroup members.

Attendees

- Juliana Palmer, Director of Justice Reinvestment, Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS)
- Cameron Edsall, Legislative Affairs Manager, GOCPYVS
- Senator Michael A. Jackson
- Senator Jack Bailey
- Delegate Moon
- Delegate Shoemaker
- Mary Denise Davis, Office of the Public Defender Baltimore City
- Faye Gaskin, Administrative Office of the Courts
- John Cox, Maryland State's Attorneys' Association

Meeting Summary

- I. Reviewed Kickoff Meeting Minutes
- II. Reviewed Primary Workgroup Goal
 - The Workgroup shall study and develop a plan and legislative recommendations for enabling the expungement of criminal charges that are currently not eligible for expungement because of the requirements of § 10–107 of the Criminal Procedure Article.
- III. Open Discussion around Key Themes Identified during Kickoff Meeting: Technology; Unintended Consequences; Timelines; and Processes.
 - *Shielding versus Expungement.*
 - Shielding does not expunge or change status of charges - some people go into court or legal aid running expungement clinic - where they show things how to expunge because charges shielded on case search are still sitting out there and can still show up in background
 - We want to focus on how to get favorable dispositions expunged - not shielded - lets see if there's ways we can come up with that; not thinking of shielding as much as expungement.
 - Senate sponsor - never discussed shielding component - narrower the better; be careful not to have such a large focal point
 - *Technology.*
 - a. The Workgroup must discuss technology - where we are right now and what the possibilities are; we need to understand if we are unable to do some of the things because of technological limitations.
 - b. Chief Judge Morrissey briefing on MDEC capabilities.

- c. We wouldn't want to be held back because technology is not there. We need to understand whether we have the capacity to do what we want to do.
- d. Timelines - can be placed into the bill that says, incrementally we can look at this and continue to work towards certain measures - short-term, mid-term, long-term goals.
- e. Workgroup also needs to consider CJIS and law enforcement agency technological capabilities. It makes sense to bring in the courts, CJIS, and law enforcement to ensure we have the capacity to take care of this.
- *Timelines.*
 - a. Shielding would be much more acceptable to the State's Attorney's Office because of unintended consequences raised in the last meeting.
 - b. Automatic or by petition; if by petition - we all know from decades that the vast majority of people are not filing for expungement which is why the automatic expungement went into effect on 10/1. Automatic is vastly different than by petition.
 - c. It leads back to a technological question - if people file for partial expungement, what is the court's capacity and capability? If we're going to go down this path towards partial expungement at all, we need to understand technological feasibility. If it is feasible, the best course of action would be to require a petition to be filed.
- *Unintended Consequences.*
 - a. Personnel are already badly swimming in the efforts to deal with expungements and laws that have come through in the last couple years. These changes will become larger with partial expungement if expanded.
 - b. Impact on Victims of Crime, Restitution, and Compensation.
 - c. Question posed: what counts would a prosecutor be willing to or would zealously pursue going forward in connection with the overall plea process?
 - d. Question posed: do we care about the *unintended consequences* for *certain crimes* more than others? To the extent that we do, we should identify which bundle of charges might be more troubling.

IV. Next Steps

- Schedule a panel to hear from the courts, CJIS, and law enforcement to understand technological capabilities and limitations related to partial expungement.
- Further explore bundle of charges/types of chargers for which the Workgroup would be willing to advance partial expungement.